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FILED
JUL 1 1966
JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. [redacted] 189

GEORGE R. WILLIAMS, et al., ex rel WILLIAM THOMAS CARROLL, CHRIS E. E. MAKAILA, JOHN THYLSTRUP,

Relators-Petitioners,

vs.

PACIFIC MARITIME ASSOCIATION, et al.,

Respondents.

Brief in Opposition to Petition for Writ of Certiorari

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THE QUESTION RAISED

While the petition argues a variety of points and presents a number of confusing arguments, we submit that the only question properly presented is whether the relators may require the other persons initially involved in the proceeding in the District Court to join in a single appeal to the Court of Appeals for the Ninth Circuit.

REASONS WHY THE WRIT SHOULD NOT BE GRANTED

None of the grounds for granting a writ of certiorari under this Court's Rule 19 is presented by the petition. There is no claim that the court of appeals has rendered a decision in conflict with the decision of another court of appeals, with another decision of that court, or with any of the applicable decisions of this Court. There is no claim that the court of appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision. There is no claim that an important question of federal law is involved that has not been, but should be, settled by this Court. There is no suggestion that the question raised, which is essentially one as to which lawyer should represent a number of clients, is of such significance as to justify a request for this Court to devote any time to the matter.

ARGUMENT

It appears to this respondent that the petition raises two arguments in support of the claim that the relators are entitled to some relief. First, relators argue that there would be a miscarriage of justice if some of the persons in the "class" that initiated the lawsuit involved in their petition are unsuccessful in obtaining an opportunity to file an amended pleading, while others are successful in such effort, because the claims of all concerned are the same so that if one group can state a cause of action then the other can also. Second, the petition suggests that San Francisco is a backwater town such that the federal courts sitting in San Francisco, both the District Court and the Court of Appeals for the Ninth Circuit, are so imbued with provincialism that they are unable to give a fair hearing to any-

one who attacks Harry Bridges or the shipping industry (Pet. 5).

To state the second argument is to answer it.

The first argument ignores the obvious remedy available in the court of appeals. The relators need only get their brief on appeal on file and ask the Court of Appeals for the Ninth Circuit to consolidate the two appeals for purposes of oral argument. If there were any merit in the underlying substantive claim that a fifth pleading might state the facts involved in this case so as to state a claim on which the federal court could give relief, the action suggested above towards getting the same decision on both appeals would eliminate, we believe, the theoretical possibility that one group of the "class" involved would gain the opportunity to file an amended pleading while the other group would be denied it.

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

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